

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H2/16/11
A Bill

HOUSE BILL 1119

5 By: Representatives Pennartz, Summers, Sanders
6

7 **For An Act To Be Entitled**

8 AN ACT TO PREVENT STATE EMPLOYEES CONVICTED OF THEFT
9 OF PROPERTY AGAINST THE EMPLOYER FROM DRAWING STATE
10 RETIREMENT BENEFITS BASED ON THE MONTHS IN WHICH THE
11 THEFT OCCURRED; TO DECLARE AN EMERGENCY; AND FOR
12 OTHER PURPOSES.
13
14

15 **Subtitle**

16 TO PREVENT STATE EMPLOYEES CONVICTED OF
17 THEFT OF PROPERTY AGAINST THE EMPLOYER
18 FROM DRAWING STATE RETIREMENT BENEFITS
19 BASED ON THE MONTHS IN WHICH THE THEFT
20 OCCURRED AND TO DECLARE AN EMERGENCY.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 24-4-1002 is amended to read as follows:

27 24-4-1002. Benefit provisions – Subjection of annuity rights to
28 process of law -- Loss of right to benefits.

29 (a) ~~The~~ Except as provided in this chapter, the right of a person to
30 an annuity, ~~to~~ the return of accumulated contributions, the annuity itself,
31 ~~any an~~ an annuity option, any other right accrued or accruing under ~~the~~
32 ~~provisions of~~ § 24-4-101 et seq., and all moneys belonging to a plan ~~shall~~
33 ~~not be:~~

34 (1) Are not subject to execution, garnishment, attachment, the
35 operation of bankruptcy or insolvency laws, or any other process of law
36 ~~whatsoever and shall be unassignable, except as is specifically provided in~~



1 ~~this chapter; and~~

2 (2) Are not assignable.

3 (b) An employer ~~shall have~~ has the right of setoff for any claim
4 arising from embezzlement by or fraud of a member, retirant, or beneficiary.

5 (c) If a public employee has pleaded guilty or nolo contendere to or
6 been found guilty of theft of property against the employer under § 5-36-103,
7 then the portion of the annuity based on employer contributions shall be
8 recalculated to exclude the months in which the theft of property against the
9 employer occurred beginning with thefts occurring on or after July 1, 2011.

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11 SECTION 2. Arkansas Code Title 24, Chapter 5, is amended to add an
12 additional section to read as follows:

13 24-5-205. Loss of right to benefits.

14 If a public employee has pleaded guilty or nolo contendere to or been
15 found guilty of theft of property against the employer under § 5-36-103, then
16 the portion of the annuity based on employer contributions shall be
17 recalculated to exclude the months in which the theft of property against the
18 employer occurred beginning with thefts occurring on or after July 1, 2011.

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20 SECTION 3. Arkansas Code § 24-6-223 is amended to read as follows:

21 24-6-223. Interest in fund not transferable or subject to legal
22 process -- Loss of right to benefits.

23 (a) No person entitled to any interest or share in any pension, any
24 return of contributions or accumulated contributions, or any other benefit
25 payable or to be made payable from funds of the system shall have the right
26 to anticipate such entitlement or to sell, assign, pledge, mortgage, or
27 otherwise dispose of or encumber such entitlement, nor shall any interest or
28 share in any pension, any return of contributions or accumulated
29 contributions, or any other benefit payable or to be made payable from funds
30 of the system be liable for the debts or liabilities of the person or persons
31 entitled thereto, or be subject to attachment, garnishment, execution, levy,
32 sale, or judicial proceedings, or be transferable by any means, voluntarily
33 or involuntarily, except as expressly provided for in this subchapter.

34 (b) ~~Should a member be~~ If a member is covered by a group insurance or
35 prepayment plan participated in by the Department of Arkansas State Police
36 and ~~should he be~~ if he or she is permitted to, ~~and elect to~~ and elects to,

1 continue the coverage as a retirant, ~~nothing contained in this section shall~~
2 does not prevent the board, upon the member's written request, from deducting
3 from his or her pension the payments required of him or her to continue
4 coverage under the group insurance or prepayment plan.

5 (c) The State of Arkansas ~~shall have~~ has the right of setoff for any
6 claim arising from embezzlement by, or fraud of, a member, retirant, or
7 beneficiary.

8 (d) If a public employee has pleaded guilty or nolo contendere to or
9 been found guilty of theft of property against the employer under § 5-36-103,
10 then the portion of the annuity based on employer contributions shall be
11 recalculated to exclude the months in which the theft of property against the
12 employer occurred beginning with thefts occurring on or after July 1, 2011.
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14 SECTION 4. Arkansas Code § 24-6-413 is amended to read as follows:

15 24-6-413. Benefit provisions – Subjection of annuity rights to process
16 of law -- Loss of right to benefits.

17 (a) The right of a person to an annuity, to the return of accumulated
18 contributions, the annuity itself, any annuity option, any other right
19 accrued or accruing under the provisions of the subchapter, and all moneys
20 belonging to a plan shall not be subject to execution, garnishment,
21 attachment, the operation of bankruptcy or insolvency laws, or any other
22 process of law whatsoever and shall be unassignable, except as is
23 specifically provided in this chapter.

24 (b) An employer ~~shall have~~ has the right of setoff for any claim
25 arising from embezzlement by or fraud of a member, retirant, or beneficiary.

26 (c) If a public employee has pleaded guilty or nolo contendere to or
27 been found guilty of theft of property against the employer under § 5-36-103,
28 then the portion of the annuity based on employer contributions shall be
29 recalculated to exclude the months in which the theft of property against the
30 employer occurred beginning with thefts occurring on or after July 1, 2011.
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32 SECTION 5. Arkansas Code § 24-7-715 is amended to read as follows:

33 24-7-715. Benefit rights not subject to legal process -- Loss of right
34 to benefits.

35 (a)(1) The right of a person to an annuity, to the return of
36 accumulated contributions, to the annuity itself, to any annuity option, and

1 to any other right accrued or accruing under the provisions of the this act,
2 and all moneys belonging to the Arkansas Teacher Retirement System, shall not
3 be subject to execution, garnishment, attachment, the operation of bankruptcy
4 or insolvency laws, or any other process of law whatsoever and shall be
5 unassignable, except as is specifically provided in this act.

6 (2) However, the employer ~~shall have~~ has the right of setoff for
7 any claim arising from embezzlement by, or fraud of, a member, retirant, or
8 beneficiary.

9 (b) ~~In the event~~ If an individual is no longer an active teacher or
10 employee of any public school district in this state, ~~nor or~~ or on leave of
11 absence, and is found by any court of competent jurisdiction of this state to
12 be willfully refusing or failing to support minor dependent children of the
13 individual in violation of a court order providing for such support, although
14 the individual is financially able to do so, then the court may, ~~in its~~
15 ~~discretion,~~ order the accumulated contributions, annuity or annuity options,
16 or any other funds accruing under ~~the provisions of~~ this act to be paid into
17 the registry of the court for such further disposition as the court ~~shall~~
18 ~~deem~~ deems just and proper.

19 (c)(1) If, under the provisions of subsection (b) of this section,
20 there is created a court order ~~which~~ that directs payment of all, or a
21 portion of, a person's accumulated contributions, the payment shall be made
22 by the system to the court.

23 (2) The person shall be notified by the system of the payment
24 and shall be given an opportunity to redeposit with the system the amount of
25 the payment.

26 (3) If the payment is not redeposited, then any system annuity
27 otherwise payable to, or on behalf of, the person shall be reduced in the
28 proportion that the payment bears to the person's accumulated contributions
29 before the payment.

30 (d) If a public employee has pleaded guilty or nolo contendere to or
31 been found guilty of theft of property against the employer under § 5-36-103,
32 then the portion of the annuity based on employer contributions shall be
33 recalculated to exclude the months in which the theft of property against the
34 employer occurred beginning with thefts occurring on or after July 1, 2011.

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36 SECTION 6. Arkansas Code § 24-10-616 is amended to read as follows:

